

Section II (Remarks)**A. Summary of Amendment to the Claims**

By the present Amendment, claims 1, 3, 4, 5, 7, 10, 13, 17-24 have been amended; claims 2, 6, 8, 9, 11, and 14-16 have been cancelled; and new claim 25 has been added. No new matter within the meaning of 35 U.S.C. §132(a) has been introduced by the foregoing amendments.

The amendments made herein are fully consistent with and supported by the originally-filed disclosure of this application. Specifically, the amendments to independent claims 1, 13, and 23 are supported by the disclosure at page 14, lines 22-23 and at page 15, lines 19-22 of the specification as originally filed. Support for new claim 25 is found at page 6, lines 10-12 of the specification as originally filed.

B. Objection to the Claim of Foreign Priority

Pursuant to 37 C.F.R. § 1.78, a reference to the prior applications to which foreign priority is claimed has been inserted as the first sentence of the specification by present amendment. Additionally, a certified copy of the British application to which priority is claimed is included with this response as required by 35 U.S.C. § 119(b).

As the reference to the foreign priority for this application was previously submitted in the Declaration, which was within the time period set forth in 37 C.F.R. § 1.78(a), the petition under 37 C.F.R. § 1.78 (a) and the surcharge under 37 C.F.R. § 1.17(t) are not required.

C. Objection to the Lack of Subject Headings in the Specification

Per the examiner's suggestion, the specification has been amended to include the subject headings as provided in 37 C.F.R. 1.77(b) as applicable to the disclosure of the present application.

D. Submission of Supplemental Information Disclosure Statement (IDS)

In a concurrent prosecution of a national phase proceeding of the PCT application from which the application claims priority, two further U.S. Patents have been cited as references. Pursuant

to 37 C.F.R. § 1.56, the applicant hereby submits a supplemental Information Disclosure Statement to bring these documents to the attention of the examiner.

E. Claim Rejections Under 35 U.S.C. § 102

In the February 25, 2008 Office Action, claims 1-5, 7, 11-15, 23, and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sendlinger (German Patent Publication 6 16635C).

Applicant disagrees and traverses the rejection for the following reasons.

The legal standard for anticipation is well established:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (See MPEP 2131).

By present amendment, independent claims 1, 13, and 23 have been amended to include the feature that “the means for diverting light comprising an optical element located within the edge region and having a plurality of facets separated by risers, the risers having a draft angle, wherein the draft angle of the risers varies across the optical element.” (See present application, claims 1, 13, 23) Accordingly, the independent claims are now limited to the use of a “Fresnel” lens, and claim 1 is further limited to the in that the draft angle of the risers of the Fresnel lens varies across the lens. (See present application, claim 1)

Sendlinger does not disclose or describe the use of a Fresnel lens as a refractor. In fact, the examiner in the February 28, 2008 Office Action states that “Sendlinger discloses all the limitations of the claims...except for the use of a Fresnel refractor.” (Office Action, pg. 8, 11.6-7) Sendlinger also does not disclose a glazing element for a window opening, in which the glazing element means for diverting light passing through the window comprises an optical element located within the edge region, **and having a plurality of facets separated by risers, the risers having a draft angle, wherein the draft angle of the risers varies across the optical element.** (emphasis added) (See present application, claims 1, 13, 23) Accordingly, Sendlinger does not describe each and every element as set forth in independent claims 1, 13, and 23, and therefore

does not anticipate claims 1, 13, and 23. As such, the applicant respectfully requests that this rejection be withdrawn.

As claims 3, 4, 5, 7, 10, 12, 24 and 25 depend from independent claims 1, 13 and 23, respectively, and pursuant to 37 C.F.R. § 1.75(c) dependent claims are construed to incorporate all of the limitations of the claims from which they depend, claims 3, 4, 5, 7, 10, 24, and 25 are also not anticipated by Sendlinger. Accordingly, the applicant respectfully requests that the rejection of dependent claims 3, 4, 5, 7, 10, 24, and 25 also be withdrawn.

F. Claim Rejections Under 35 U.S.C. § 103

In the February 28, 2008 Office Action, claims 6 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sendlinger (German Patent Publication 616635C) in view of Sauer (US Patent 6,866,918). By present amendment, claims 6 and 8 are deleted, therefore the rejection is moot. Accordingly, the applicant respectfully requests that this rejection be withdrawn.

Additionally in the February 28, 2008 Office Action, claims 9 and 16-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sendlinger (German Patent Publication 6 16635C; hereinafter “Sendlinger”) in view of Milner (US Patent 5,6 17,245; hereinafter “Milner”). By present amendment, claims 9 and 16 are deleted; therefore the rejection of these claims is moot.

Claims 17 – 22 have been amended to depend from independent claims 1 and 13. In regard to the rejection of claims 17-22, the examiner contends that “Sendlinger discloses all the limitations of the claims, as applied above, except for the use of a Fresnel refractor,” and that “Milner teaches the use of a Fresnel refractor in place of a conventional optical refractor.” (Office Action, pg. 8, ll. 6-10) The examiner further asserts that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a refractor, such as that disclosed by Sendlinger, to be constructed as a Fresnel refractor, as taught by Milner, in order to construct the refractor in a manner that allows easier manufacture.” (Office Action, pg. 8, ll. 11-12) The applicant disagrees and traverses such rejection for the following reasons.

To support a rejection under 35 U.S.C. § 103, **the prior art reference(s) must teach all of the limitations of the claims.** (emphasis added) MPEP § 2143.03. Additionally, “[i]n determining

the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention **as a whole would have been obvious.**” (emphasis added) *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) MPEP § 2141.02

The combination of Milner and Sendingler does not teach all of the limitations of amended independent claims 1 and 13. The amendments to claims 1 and 13 include both the use of a Fresnel lens to increase the field of view through a window opening and the use of a Fresnel lens with varying draft angles of the risers such that each riser was parallel to the path of the adjacent light rays, in which instance the risers would present substantially no obstruction to the passage of the light rays. As previously discussed, Sendingler does not teach or suggest the use of a Fresnel lens at all, and Milner only contemplates the use of a Fresnel lens in conjunction with a conventional planar refractor, which teaches away from the use of the Fresnel lens in the present application. (See Milner, column 6, ll. 20-41 and Fig. 6)

Accordingly, as Sendingler in conjunction with Milner do not disclose all of the limitations of amended claims 1 and 13, and pursuant to 37 C.F.R. § 1.75(c), dependent claims 16-22 are construed to incorporate all of the limitations of independent claims 1 and 13, dependent claims 16-22 are not obvious in light of Sendingler in view of Milner. As such, the applicant respectfully requests that this rejection be withdrawn.

G. Fee Payable for Added Claims and Supplemental IDS

By the present Amendment, one (1) new dependent claim has been added, but eight (8) claims have been deleted. Accordingly, no new claims have been introduced beyond the numbers for which payment was previously made.

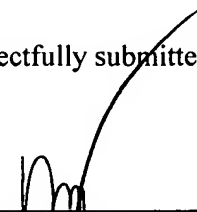
The payment for the supplemental IDS pursuant to 37 C.F.R. § 1.97(e) is \$180.00. Payment of such fees is authorized in the enclosed Credit Card Payment Form PTO-2038.

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CONCLUSION

Based on the foregoing, all of Applicants' pending claims 1, 3-5, 7, 10, 13, 17-25 have been amended are patentably distinguished over the art, and in form and condition for allowance. The examiner is requested to favorably consider the foregoing, and to responsively issue a Notice of Allowance. If any issues require further resolution, the examiner is requested to contact the undersigned attorney at (919) 419-9350 to discuss same.

Respectfully submitted,



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Enclosures:

Supplemental Information Disclosure Statement [3pp.]
Certified Copy of British Application [26pp.]
Credit Card Form PTO-2038 [1 pg.]

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